

PAYMENTS; EDUCATIONAL ASSISTANCE  
ALLOWANCE

**§ 21.4131 Commencing dates.**

The commencing date of an award or increased award of educational assistance allowance will be determined under this section.

(a) *Entrance or reentrance including change of program or school* (§ 21.4234). Latest of following dates:

(1) Date certified by school or establishment under paragraph (b) or (c) of this section.

(2) Date 1 year prior to date of receipt of the application or enrollment certification, whichever is later. (See §§ 21.1032 and 21.3032.)

(3) The later of the following:

(i) The effective date of the approval of the course, or

(ii) One year before the date VA receives the approval notice.

(Authority: 38 U.S.C. 3672(a))

(4) Date of reopened application under paragraph (d) of this section.

(b) *Certification by school—the course or subject leads to a standard college degree.* (1) When the student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) Except as provided in paragraphs (b)(3), (b)(4) and (b)(5) of this section when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(3) When the student enrolls in a resident course or subject whose first scheduled class begins after the calendar week when, according to the school's academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for that particular course or subject.

(4) When a student enrolls in a resident course or subject, the commencing date of the award will be the date the student reports to the school provided that—

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered, and no later than the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(5) When the student enrolls in a resident course or subject and the first day of classes is more than 14 days after the date of registration, the commencing date of the award or the increased award of educational assistance will be the first day of classes.

(Authority: 38 U.S.C. 3481(a), 3680(a); Pub. L. 98–525)

(c) *Certification by school or establishment—course does not lead to a standard college degree.* (1) Residence school: See paragraph (b) of this section.

(2) Correspondence school: Date first lesson sent or date of affirmance whichever is later.

(3) Job training: First date of employment in training position.

(Authority: 38 U.S.C. 3481, 3687)

(d) *Reopened application after abandonment* (§§ 21.1032 and 21.3032). The date of receipt of application or enrollment certification, whichever is later, if pursuing an approved course.

(e) [Reserved]

(f) *Liberalizing laws and Department of Veterans Affairs issues.* In accordance with facts found, but not earlier than the effective date of the act or administrative issue.

(g) *Correction of military records.* Eligibility of a veteran or eligible person may arise as the result of correction or modification of military records under 10 U.S.C. 1552, or a change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other competent military authority. In these cases the commencing date of educational assistance allowance will be in accordance with the facts found, but

## Department of Veterans Affairs

## § 21.4134

not earlier than the date the change, correction or modification was made by the service department.

(Authority: 38 U.S.C. 3462(b), 3501(d))

(h) *Individuals in a penal institution.* If a veteran or eligible person is paid a reduced rate of educational assistance or no educational assistance under § 21.3132 (a) or (b) or § 21.5139, the rate will be increased or benefits will commence effective the earlier of the following dates:

(1) The date the tuition and fees are no longer being paid under another Federal program, or a State or local program, or

(2) The date of the release from the prison or jail.

(Authority: 38 U.S.C. 3482(g), 3532(e))

(i) *Service Members Occupational Conversion and Training Act of 1992.* If the veteran's or eligible person's educational assistance has been discontinued because the veteran or eligible person is training under a job training program for which benefits are payable to his or her employer under the Service Members Occupational Conversion and Training Act, VA will determine the date upon which educational assistance may be resumed as follows.

(1) When the veteran or eligible person is pursuing a program of education on the last date for which benefits are payable under that Act, payments will be resumed on the day following that date.

(2) When the veteran or eligible person is not pursuing a program of education on the last date for which benefits are payable under that Act, payments will be resumed on the earliest date otherwise provided by this section, but not before the day following the last date for which benefits are payable under that Act.

(Authority: Sec. 4492(a), Pub. L. 102-484, 106 Stat. 2765-2766)

(j) [Reserved]

[31 FR 6774, May 6, 1966, as amended at 39 FR 43220, Dec. 11, 1974; 41 FR 47929, Nov. 1, 1976; 46 FR 62060, Dec. 22, 1981; 48 FR 37977 and 37978, Aug. 22, 1983; 49 FR 5113, Feb. 10, 1984; 50 FR 48581, Nov. 26, 1985; 51 FR 16318, May 2, 1986; 54 FR 28677, July 7, 1989; 57 FR 40614, Sept. 4, 1992; 61 FR 6782, Feb. 22, 1996; 61 FR 26113, May 24, 1996]

### § 21.4133 Notification of suspension or discontinuance.

(a) *Presuspension notice.* Not less than 30 days before the Director of a Department of Veterans Affairs facility acts to make a mass suspension of payments of educational assistance allowance under § 21.4134(c) he or she shall send written notice to each affected veteran or eligible person. The notice:

(1) Shall state the Director's intent to suspend payments unless the educational institution takes corrective action;

(2) Shall give the Director's reasons for suspending payments; and

(3) Shall state the date on which the Director intends to suspend payments.

(b) *Notice of suspension and discontinuance.* When the Department of Veterans Affairs suspends or discontinues payment to any veteran or person under § 21.4134(b) or § 21.4135, the Department of Veterans Affairs shall send written notice of the suspension or discontinuance to the veteran or eligible person. The notice:

(1) Shall state the reasons for the suspension or discontinuance of payments, and

(2) Shall notify the veteran or eligible person that he or she has a right:

(i) To a hearing, and

(ii) To present evidence why payments should not be discontinued or suspended.

(Authority: 38 U.S.C. 3690(b))

[49 FR 5113, Feb. 10, 1984]

EFFECTIVE DATE NOTE: At 63 FR 35831, July 1, 1998, § 21.4133 was removed, effective July 31, 1998.

### § 21.4134 Suspension and discontinuance.

(a) *Suspension and discontinuance despite course approval.* Even though a State approving agency has approved a course offered by a school, the Director of the Department of Veterans Affairs facility of jurisdiction:

(1) May suspend payment of educational assistance allowance to any or all veterans and eligible persons enrolled in the course, and

(2) After following the procedures in § 21.4207 may discontinue payment of educational assistance to any or all